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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,159	09/21/2006	Larry R. Krepski	C1271.70044US02	5116
23628 7590 08/04/2009 WOLF GREENFIELD & SACKS, P.C. 600 ATLANTIC AVENUE BOSTON, MA 02210-2206				
EXAMINER				
SEAMAN, D MARGARET M				
ART UNIT		PAPER NUMBER		
1625				
MAIL DATE		DELIVERY MODE		
08/04/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/599,159

Applicant(s)

KREPSKI ET AL.

Examiner

D. Margaret Seaman

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8-14, 16, 20, 22, 26-28, 31, 33-36 and 40-70 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) See Continuation Sheet are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

Continuation of Disposition of Claims: Claims subject to restriction and/or election requirement are 2-6,8-14,16,20,22,26-28,31,33-36 and 40-70.

DETAILED ACTION

This application was filed 9/21/2006 and is a 371 of PCT/US05/09880 (3/24/2005) which claims priority to 60/555753 (3/24/2004) and 60/578769 (6/10/2004).

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 3, 8, 13, 40-44 and 63 specifically and claims 2, 14, 16, 26-28, 31 and 33 generically, drawn to compounds and compositions wherein in formula (II) that RA and RB do not make a ring.

Group 2, claim(s) 9-11, 20, 22, 59-62 and 66 specifically and generically claims 2, 14, 16, 26-28, 31 and 33, drawn to compounds and compositions wherein in formula (II) RA and RB make a pyridine ring (6 membered with 1 N and 5 C).

Group 3, claim(s) 4, 5, 12, 45-58 and 64-65 specifically and generically claims 2, 14, 16, 26-28, 31 and 33 drawn to compounds and compositions wherein in formula (II) RA and RB make a phenyl or cyclohexyl ring (6 membered with 6 C).

Group 4, claim(s) 2, 14, 16, 26-28, 31 and 33 generically, drawn to compounds and compositions wherein in formula (II) RA and RB make a ring not encompassed above.

Group 5, claim(s) 67 specifically and claims 34-36 generically, drawn to methods of inducing cytokine biosynthesis in an animal using a compound or compositions wherein in formula (II) that RA and RB do not make a ring.

Group 6, claim(s) 70 specifically and generically claims 34-36, drawn to methods of inducing cytokine biosynthesis in an animal using a compound or compositions compositions wherein in formula (II) RA and RB make a pyridine ring (6 membered with 1 N and 5 C).

Group 7, claim(s) 68-69 specifically and generically claims 34-36, drawn to methods of inducing cytokine biosynthesis in an animal using a compound or compositions wherein in formula (II) RA and RB make a phenyl or cyclohexyl ring (6 membered with 6 C).

Group 8, claim(s) 34-36 generically, drawn to methods of inducing cytokine biosynthesis in an animal using a compound or compositions wherein in formula (II) RA and RB make a ring not encompassed above.

2. The inventions listed as Groups 1-4 and 5-8 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Korhonen (US 20030113733, 2003) teaches the same core structure having a different utility, for treating burns. Unity of invention is lacking for the core structure and for the utility.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. Margaret Seaman whose telephone number is 571-272-0694. The examiner can normally be reached on 730am-4pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

D. Margaret Seaman
Primary Examiner
Art Unit 1625

/D. Margaret Seaman/
Primary Examiner, Art Unit 1625